

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JACK MANN,

Plaintiff,

No. 14-13439

v.

District Judge Arthur J. Tarnow  
Magistrate Judge R. Steven Whalen

UNITED STATES OF AMERICA,

Defendant.

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**ORDER**

On January 27, 2016, I filed a Report and Recommendation recommending that the Plaintiff's complaint be dismissed based on his failure to exhaust administrative remedies, as required by 42 U.S.C. § 1997e(a). In fact, Plaintiff did not even initiate his administrative remedy process within the Bureau of Prisons until a month after he filed his complaint. Under the PLRA, "a prison inmate may not complete the grievance process after filing suit." *Boulding v. Michigan Dep't of Corr.*, 2015 WL 136195, at \*3 (E.D. Mich. 2015), citing *Larkins v. Wilkinson*, 1998 WL 898870 at \*2 (6th Cir. Dec.17, 1998) (unpublished).

Plaintiff has filed a motion to amend his complaint [Doc. #48], as well as an amended complaint [Doc. #66]. The Defendant has filed a motion to strike the amended complaint [Doc. #67]. Notwithstanding any additional factual allegations Plaintiff may now make, the fact is that he did not exhaust his administrative remedies before commencing this action, and the action must therefore be dismissed. *Porter v. Nussle*, 534 U.S. 516, 122 S.Ct. 983, 984, 152 L.Ed.2d 12(2002). Therefore, Plaintiff's motion to amend must be DENIED as futile, and Defendant's motion to strike the amended

complaint (which was filed without first obtaining leave of the Court) must be GRANTED.

Plaintiff has also filed the following non-dispositive motions:

-Motion for Discovery Conference and Sanctions [Doc. #24]

-Motion to Admit or Deny [Doc. #38]

-Motion for Expedited Discovery [Doc. #41]

-Motion for Order re: Discovery [Doc. #49]

Because Plaintiff's complaint must be dismissed for non-exhaustion, these motions must be DENIED.

IT IS THEREFORE ORDERED that Plaintiff's motion to amend complaint [Doc. #48] be DENIED.

IT IS FURTHER ORDERED that Defendant's motion to strike the amended complaint [Doc. #67] be GRANTED, and that Plaintiff's amended complaint [Doc. #66] be STRICKEN.

IT IS FURTHER ORDERED that Plaintiff's motions for Discovery Conference and Sanctions [Doc. #24]; to Admit or Deny [Doc. #38]; for Expedited Discovery [Doc. #41]; and for Order re: Discovery [Doc. #49] are all DENIED.

s/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Date: January 27, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on January 27, 2016, electronically and/or by U.S. mail.

s/C. Ciesla  
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Case Manager